IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH,
AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No. 15303 OF 2000

Date:27.07.2007

BETWEEN:

T. Subramanyam

…. PETITIONER

And

Land Acquisition Officer-cum-
Revenue Divisional Officer, Chittoor,
Chittoor District.

…. RESPONDENT

ORDER:

The grievance of the petitioner is that though he sought for reference under Section 18 of the Land Acquisition Act, 1894, (for short 'the Act'), the respondent refused to refer the matter stating that it is barred by limitation. Hence the petitioner approached this Court and filed the present writ petition.

Brief facts are that an extent of Acs.0.48 cents of land belonging to the petitioner was sought to be acquired for the purpose of construction of N.T.R. Water Storage Tank near Kalavagunta village, Penumur villae, Chittoor district. Draft notification under Section 4(1) of the Act was issued on 20.03.1997. The Land Acquisition Officer, after following the procedure under the Act, passed award No.5/1999-2000 dated 11.05.1999 fixing the compensation of the land in question at Rs.30,472/-. It appears, a notice under Section 12(2) of the Act enclosing a copy of the award was served on the petitioner and immediately thereafter the petitioner approached the authority and received the compensation under protest on 16.07.1999 and made oral request to the respondent to refer the matter to the civil Court for enhancement of compensation. As the matter was not referred to a competent civil Court, the petitioner again sent a letter by Registered Post Acknowledgement Due on 15.11.1999 and the same was rejected by the Land Acquisition officer on the ground that the said letter is beyond the period prescribed under the statute. Since the matter was not referred to the civil Court, as stated supra, the petitioner approached this Court by way of filing the present writ petition.

Heard learned counsel for the petitioner and learned Assistant Government Pleader for Appeals.

As per the statute an application seeking reference shall be made within a period of two months from the date of service of notice under Section 12(2) of the Act. Evidently, the notice along with a copy of the Award was sent to the petitioner on 11.05.1999 and the same must have been received by the petitioner before 16.07.1999. If the contention of the petitioner that he made an oral request on that day itself is accepted it can definitely be said that the said request for reference is within time. However, there is absolutely no material to come to a conclusion that the petitioner has made an oral request before the respondent, to accept the petitioner's assertion in this writ petition.

Further, the Act itself makes it amply clear that "any person interested, who has not accepted the award, may by written application to the Collector require that the matter be referred by the Collector for determination of the Court". From the above wording used in the statute, it is clear that the question of making oral request does not arise and it is only a written application, if any made, that too within the time provided under the statute, then only, the Collector is under obligation to refer the matter to a competent civil Court.

No doubt, in the instant case a written application was made and the same was sent by way of registered post on 15.11.1999 but the same is beyond the limitation period of two months as prescribed under the statute. Hence this Court is of the view that the Land Acquisition Officer is justified in refusing to refer the matter to a civil Court for proper determination of the compensation.

Under the above circumstances, I see no merit in the writ petition, and the same is accordingly dismissed. However, it is brought

to the notice of this Court by the learned counsel for the petitioner as well as the learned Assistant Government Pleader for Appeals that several lands were acquired under the same notification, and other matters wherein written application seeking reference was made, were referred to the civil Court and the same are still pending. If that be the case, as and when the said matters are decided, the petitioner is at liberty to approach the Land Acquisition Officer and file application for enhancement of compensation as provided for under Section 28-A of the Act. There shall be no order as to costs.

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(**Gopala Krishna Tamada, J.**)

27th July, 2007
Js.